

CCH-2456

REPORT OF THE CONFERENCE COMMITTEE

ON HOUSE FILE 2456

To the Speaker of the House of Representatives and the President of the Senate:

We, the undersigned members of the conference committee appointed to resolve the differences between the House of Representatives and the Senate on House File 2456, a bill for an Act concerning the use of electronic communication devices while driving, including prohibiting a person from writing or sending a text message while driving a motor vehicle and providing penalties, respectfully make the following report:

1. That the House recedes from its amendment, S-5200.

2. That the Senate recedes from its amendment, H-8251.

3. That House File 2456, as amended, passed, and reprinted by the House, is amended to read as follows:

1. By striking everything after the enacting clause and inserting:

<Section 1. Section 321.178, subsection 2, paragraph a, Code 2009, is amended to read as follows:

a. (1) A person between sixteen and eighteen years of age who has completed an approved driver's education course and is not in attendance at school and has not met the requirements described in section 299.2, subsection 1, may be issued a restricted license only for travel to and from work or to transport dependents to and from temporary care facilities, if necessary for the person to maintain the person's present employment. The restricted license shall be issued by the department only upon confirmation of the person's employment and need for a restricted license to travel to and from work or to transport dependents to and from temporary care facilities if necessary to maintain the person's employment. The employer shall notify the department if the employment of the person is terminated before the person attains the age of eighteen.

(2) (a) A person issued a restricted license under this

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1 section shall not use an electronic communication device or an  
2 electronic entertainment device while driving a motor vehicle  
3 unless the motor vehicle is at a complete stop off the traveled  
4 portion of the roadway. This subparagraph division does not  
5 apply to the use of electronic equipment which is permanently  
6 installed in the motor vehicle or to a portable device which is  
7 operated through permanently installed equipment. A violation  
8 of this subparagraph division shall not be considered a moving  
9 violation except for purposes of section 321.193.

10 (b) For the period beginning July 1, 2010, through June  
11 30, 2011, peace officers shall issue only warning citations  
12 for violations of subparagraph division (a). The department,  
13 in cooperation with the department of public safety, shall  
14 establish educational programs to foster compliance with the  
15 requirements of subparagraph division (a).

16 Sec. 2. Section 321.180B, Code Supplement 2009, is amended  
17 by adding the following new subsection:

18 NEW SUBSECTION. 6A. a. A person issued an instruction  
19 permit or intermediate driver's license under this section  
20 shall not use an electronic communication device or an  
21 electronic entertainment device while driving a motor vehicle  
22 unless the motor vehicle is at a complete stop off the traveled  
23 portion of the roadway. This paragraph does not apply to the  
24 use of electronic equipment which is permanently installed in  
25 the motor vehicle or to a portable device which is operated  
26 through permanently installed equipment. A violation of this  
27 paragraph shall not be considered a moving violation except for  
28 purposes of section 321.193.

29 b. For the period beginning July 1, 2010, through June 30,  
30 2011, peace officers shall issue only warning citations for  
31 violations of paragraph "a". The department, in cooperation  
32 with the department of public safety, shall establish  
33 educational programs to foster compliance with the requirements  
34 of paragraph "a".

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1     Sec. 3. Section 321.194, subsection 1, Code Supplement  
2 2009, is amended by adding the following new paragraph:

3     NEW PARAGRAPH. *c.* (1) A person issued a driver's license  
4 under this section shall not use an electronic communication  
5 device or an electronic entertainment device while driving a  
6 motor vehicle unless the motor vehicle is at a complete stop  
7 off the traveled portion of the roadway. This subparagraph  
8 does not apply to the use of electronic equipment which is  
9 permanently installed in the motor vehicle or to a portable  
10 device which is operated through permanently installed  
11 equipment. A violation of this subparagraph shall not be  
12 considered a moving violation except for purposes of section  
13 321.193.

14     (2) For the period beginning July 1, 2010, through June 30,  
15 2011, peace officers shall issue only warning citations for  
16 violations of subparagraph (1). The department, in cooperation  
17 with the department of public safety, shall establish  
18 educational programs to foster compliance with the requirements  
19 of subparagraph (1).

20     Sec. 4. Section 321.210, subsection 2, Code 2009, is amended  
21 by adding the following new paragraph:

22     NEW PARAGRAPH. *e.* Violations of section 321.276.

23     Sec. 5. NEW SECTION. **321.238 Use of electronic devices**  
24 **while driving — preemption of local legislation.**

25     The provisions of this chapter restricting the use of  
26 electronic communication devices and electronic entertainment  
27 devices by motor vehicle operators shall be implemented  
28 uniformly throughout the state. Such provisions shall preempt  
29 any county or municipal ordinance regarding the use of an  
30 electronic communication device or electronic entertainment  
31 device by a motor vehicle operator. In addition, a county or  
32 municipality shall not adopt or continue in effect an ordinance  
33 regarding the use of an electronic communication device or  
34 electronic entertainment device by a motor vehicle operator.

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1     Sec. 6. NEW SECTION.   321.276   Use of electronic  
2 communication device while driving — text-messaging.

3     1. For purposes of this section:

4     *a. "Engage in a call"* means talking or listening on a mobile  
5 telephone or other portable electronic communication device.

6     *b. "Hand-held electronic communication device"* means a mobile  
7 telephone or other portable electronic communication device  
8 capable of being used to write, send, or read a text message.  
9 *"Hand-held electronic communication device"* does not include a  
10 voice-operated or hands-free device which allows the user to  
11 write, send, or read a text message without the use of either  
12 hand except to activate or deactivate a feature or function.  
13 *"Hand-held electronic communication device"* does not include a  
14 wireless communication device used to transmit or receive data  
15 as part of a digital dispatch system. *"Hand-held electronic*  
16 *communication device"* includes a device which is temporarily  
17 mounted inside the motor vehicle, unless the device is a  
18 voice-operated or hands-free device.

19     *c. "Text message"* includes a text-based message, an instant  
20 message, and electronic mail.

21     *d. The terms "write", "send", and "read", with respect*  
22 *to a text message, mean the manual entry, transmission, and*  
23 *retrieval of a text message, respectively, to communicate with*  
24 *any other person or device.*

25     2. A person shall not use a hand-held electronic  
26 communication device to write, send, or read a text message  
27 while driving a motor vehicle unless the motor vehicle is at a  
28 complete stop off the traveled portion of the roadway.

29     *a. A person does not violate this section by using a global*  
30 *positioning system or navigation system or when, for the*  
31 *purpose of engaging in a call, the person selects or enters a*  
32 *telephone number or name in a hand-held mobile telephone or*  
33 *activates, deactivates, or initiates a function of a hand-held*  
34 *mobile telephone.*

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1     *b.* The provisions of this subsection relating to reading a  
2 text message do not apply to the following persons:

3       (1) A member of a public safety agency, as defined in  
4 section 34.1, performing official duties.

5       (2) A health care professional in the course of an emergency  
6 situation.

7       (3) A person receiving safety-related information including  
8 emergency, traffic, or weather alerts.

9     3. Nothing in this section shall be construed to authorize a  
10 peace officer to confiscate a portable electronic communication  
11 device from the driver or occupant of a motor vehicle.

12     4. *a.* A person convicted of a violation of this section  
13 is guilty of a simple misdemeanor punishable as a scheduled  
14 violation under section 805.8A, subsection 14, paragraph "k".

15     *b.* A violation of this section shall not be considered a  
16 moving violation for purposes of this chapter or rules adopted  
17 pursuant to this chapter.

18     5. *a.* A peace officer shall not stop or detain a person  
19 solely for a suspected violation of this section. This section  
20 is enforceable by a peace officer only as a secondary action  
21 when the driver of a motor vehicle has been stopped or detained  
22 for a suspected violation of another provision of this chapter,  
23 a local ordinance equivalent to a provision of this chapter,  
24 or other law.

25     *b.* For the period beginning July 1, 2010, through June 30,  
26 2011, peace officers shall issue only warning citations for  
27 violations of this section. The department, in cooperation  
28 with the department of public safety, shall establish  
29 educational programs to foster compliance with the requirements  
30 of this section.

31     Sec. 7. Section 321.482A, unnumbered paragraph 1, Code  
32 2009, is amended to read as follows:

33     Notwithstanding section 321.482, a person who is convicted  
34 of operating a motor vehicle in violation of section

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1 321.178, subsection 2, paragraph "a", subparagraph (2),  
2 section 321.180B, subsection 6A, section 321.194, subsection  
3 1, paragraph "c", section 321.275, subsection 4, section  
4 321.276, 321.297, 321.298, 321.299, 321.302, 321.303, 321.304,  
5 321.305, 321.306, 321.307, 321.308, section 321.309, subsection  
6 2, or section 321.311, 321.319, 321.320, 321.321, 321.322,  
7 321.323, 321.323A, 321.324, 321.324A, 321.327, 321.329, or  
8 321.333 causing serious injury to or the death of another  
9 person may be subject to the following penalties in addition  
10 to the penalty provided for a scheduled violation in section  
11 805.8A or any other penalty provided by law:

12     Sec. 8. Section 321.555, subsection 2, Code 2009, is amended  
13 to read as follows:

14     2. Six or more of any separate and distinct offenses within  
15 a two-year period in the operation of a motor vehicle, which  
16 are required to be reported to the department by section  
17 321.491 or chapter 321C, except equipment violations, parking  
18 violations as defined in section 321.210, violations of  
19 registration laws, violations of sections 321.445 and 321.446,  
20 violations of section 321.276, operating a vehicle with an  
21 expired license or permit, failure to appear, weights and  
22 measures violations and speeding violations of less than  
23 fifteen miles per hour over the legal speed limit.

24     Sec. 9. Section 805.8A, subsection 4, paragraph a, Code  
25 Supplement 2009, is amended to read as follows:

26     a. For violations under ~~sections~~ section 321.174A, section  
27 321.178, subsection 2, paragraph "a", subparagraph (2),  
28 sections 321.180, 321.180B, 321.193, and 321.194, the scheduled  
29 fine is thirty dollars.

30     Sec. 10. Section 805.8A, subsection 14, Code Supplement  
31 2009, is amended by adding the following new paragraph:

32     NEW PARAGRAPH. k. Text-messaging while driving  
33 violations. For violations under section 321.276, the scheduled  
34 fine is thirty dollars.>

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1 2. Title page, by striking lines 2 and 3 and inserting  
2 <while driving, and>

3 ON THE PART OF THE HOUSE:

4 ON THE PART OF THE SENATE:

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CURT HANSON, CHAIRPERSON

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JEFF DANIELSON, CHAIRPERSON

---

CHRIS HAGENOW

---

WILLIAM HECKROTH

---

JIM LYKAM

---

THOMAS RIELLY

---

RICK OLSON

---

DAVID TJEPKES